

**CENTERS FOR MEDICARE & MEDICAID SERVICES SPECIAL TERMS AND
CONDITIONS (STCs)**

NUMBER: 11-W-00195/6 and 21-W-00021/6

TITLE: TexKat Program

AWARDEE: Texas Health and Human Services Commission

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I. PREFACE

The following are Special Terms and Conditions (STCs) for the TexKat program, a Medicaid and State Children's Health Insurance program (SCHIP) Section 1115 demonstration. The STCs have been arranged into the following subject areas: General Program Requirements, General Reporting Requirements, Legislation, Eligibility and Enrollment, Benefits, Cost Sharing, Program Design, General Financial Requirements Under Title XXI, and General Financial Requirements Under Title XIX.

Amendment requests, correspondence, documents, reports, and other materials that are submitted for review or approval shall be directed to the Centers for Medicare & Medicaid Services' (CMS) Central Office Project Officer and the Associate Regional Administrator at the addresses shown on the award letter.

The State agrees it will comply with all applicable Federal statutes relating to nondiscrimination. These include, but are not limited to: the Americans with Disabilities Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

II. GENERAL PROGRAM REQUIREMENTS

1. Definitions. For purposes of the STCs, the following definitions apply.

- a. **"Income":** Income limits are expressed in terms of gross income, excluding sources of income that cannot be counted pursuant to other statutes.
- b. **Emergency Area:** Refers to a geographic area or region in which a National Disaster has been declared. In the case of Hurricane Katrina this refers to the States of Louisiana, Mississippi, Alabama and Florida. The affected counties/parishes below have been declared by FEMA as designated counties requiring Individual Assistance as a result of Hurricane Katrina. Evacuees from these counties are eligible under this waiver pursuant the Individual Assistance Program designation pursuant the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Section 408: Federal Assistance to Individuals and Households¹.

Louisiana:

Acadia, Ascension, Assumption, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Pointe Coupee, Plaquemines, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Mary, St. Martin, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge, and West Feliciana parishes.

¹ As of September 15, 2005, no Florida counties have Individual Assistance Designation pursuant Section 408. Other affected National Disaster States/areas could be added at a later date.

Mississippi:

Adams, Amite, Attala, Claiborne, Choctaw, Clarke, Copiah, Covington, Forrest, Franklin, George, Greene, Hancock, Harrison, Hinds, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lamar, Lauderdale, Lawrence, Leake, Lincoln, Lowndes, Madison, Marion, Neshoba, Newton, Noxubee, Oktibbeha, Pearl River, Perry, Pike, Rankin, Scott, Simpson, Smith, Stone, Walthall, Warren, Wayne, Wilkinson, Winston, and Yazoo Counties.

Alabama:

Baldwin, Mobile, Pickens, Greene, Hale, Tuscaloosa, Washington, Choctaw, Clarke, and Sumter Counties

Florida:

As of September 15, 2005, no Florida counties have Individual Assistance Designation pursuant to Section 408.

Other affected National Disaster States/areas could be added at a later date by CMS.

- c. **Evacuee:** Refers to an individual who is a resident of the emergency area affected by a National Disaster as declared by the President of the United States pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and has been displaced from his or her home by the emergency, and is not a non-qualified alien and meets the definition of eligibility population.
- d. **Evacuee Status:** Refers to a temporary eligibility status not to exceed 5 months, during which evacuees will be able to access Medicaid or SCHIP services.
- e. **Evacuee Status Eligibility Determination:** Applications in Texas for eligibility for evacuee status will be accepted from August 24, 2005 through January 31, 2006 and may be retroactive to August 24, 2005. Any eligibility time period prior to September 1, 2005, will not count against an evacuee's eligibility period. Evacuee status will be limited to parents, pregnant women, children under age 19, individuals with disabilities, low income Medicare recipients, and low income individuals in need of long term care: (1) with incomes up to and including the levels listed on the attached eligibility simplification chart. Evacuee status will be established by self-attestation of displacement, income, and immigration status, but evacuees must be required to cooperate in demonstrating evacuee and eligibility status. Texas will not apply their resource test criteria applicable to the applicant's eligibility category.
- f. **Home State:** Refers to the State in which the National Disaster has been declared and from which the individuals have been displaced.
- g. **Host State:** Refers to the State in which evacuees are temporarily residing. The Host State could become the evacuees' permanent place of residence.

- h. Temporary Eligibility Period:** A period of eligibility for up to 5 months is provided for all eligibility groups who are evacuees. If they wish to be determined eligible for regular Medicaid/SCHIP, at the end of the temporary eligibility period individuals must reapply for eligibility under a permanent eligibility category. Neither the Host State nor the Home State is obligated to redetermine eligibility before the termination of the temporary period, but either State may elect to redetermine whether the individual is eligible under a permanent eligibility category under its State plan. No applications for evacuee status may be accepted after January 31, 2006.
- i. Host State Assurances:** Host States assure that they will, to the greatest extent possible: (1) verify circumstances of eligibility, (2) verify residency and citizenship of the evacuees, and (3) prevent fraud and abuse. Host and Home States may be subject to audit by other Federal agencies including the Office of the Inspector General. The purpose of the audit will be to assure only evacuee expenses are claimed by the State under the terms of the waiver and to detect provider or client fraud and abuse. Any provider or client fraud and abuse will require recovery efforts on the part of the State; however, the States will not be held liable for such fraud and abuse. Additionally, there is a reciprocal obligation for Home/Host States in obtaining necessary information to determine eligibility for this waiver program.
- j. Duration of the Demonstration Program:** The duration of the program will be from August 24, 2005 through June 30, 2006.
- k. Eligible Populations:** The demonstration population will consist of evacuees who are parents, pregnant women, children under age 19, individuals with disabilities, low income Medicare recipients, and low income individuals in need of long term care with incomes up to and including the levels listed on the attached simplified eligibility chart or the eligibility levels in the affected States. A new category of “evacuee” will be created to capture the displaced individuals for reporting purposes. States must report enrollment in these eligibility categories monthly. States must report enrollment in these eligibility categories monthly.
- l. Benefits:** The benefits for evacuees will be those of the State plan Title XIX and Title XXI programs in Texas. The cost of services provided to evacuees deemed eligible are not counted against any other section 1115, section 1915(b) or (c) waiver the State may have, including Home and Community Based Services waiver slots.
- m. Effective Date:** The demonstration project will be effective upon approval by the Secretary with respect to evacuees. Eligibility and payments under such a demonstration may be retroactive to August 24, 2005.
- n. Uncompensated Care Pool:** This fund allows Texas to reimburse providers that incur uncompensated care costs for medically necessary services and supplies for evacuees who do not have other coverage for such services and supplies through insurance including Title XIX and XXI during a 5 month period from August 24, 2005 through January 31, 2006. The pool may be used to provide reimbursement for benefits not

covered under Title XIX and XXI in the State. Expenditures from the pool will be subject to audit. Texas may establish other methodologies to prevent abuse including an income test and shall submit such methodologies by October 31, 2005. Texas shall establish mechanisms to prevent payments from the pool on behalf of individuals who have coverage for services or for which other options are available. Texas shall consider alternative methods for providing coverage to uninsured evacuees including through premium assistance for private insurance and other insurance pools and report to CMS on the feasibility of adopting such alternative methods no later than October 31, 2005.

3. **Adequacy of Infrastructure.** The State shall ensure the availability of adequate resources for implementation and monitoring of the demonstration, including enrollment; maintaining eligibility systems; compliance with cost sharing; and reporting on financial and other issues.
4. **Notice to Applicants:** Host States shall provide notice to evacuees that this is a limited benefit for five months from the date of application. Applicants should be given notice that at the end of the temporary eligibility period individuals must re-apply for eligibility under a permanent eligibility category.
5. **Fair Hearings and Appeals:** No fair hearings and/or appeals are provided as part of this demonstration program.
6. **Cooperation with Federal Evaluators.** Should CMS undertake an evaluation of the demonstration, the State must fully cooperate with Federal evaluators and their contractors' efforts to conduct an independent Federally funded evaluation of the demonstration program.
7. **CMS Right to Terminate or Suspend.** CMS may suspend or terminate this project in whole or in part at any time before the date of expiration, if and whenever it determines that the State has materially failed to comply with the terms of the project. CMS will promptly notify the State in writing of the determination and the reasons for the suspension or termination, together with the effective date. The State waives none of its rights under 42 CFR 430, Grants to States for Medical Assistance Programs, to challenge CMS' finding that the State materially failed to comply. CMS reserves the right to deny pending demonstration requests or withdraw demonstrations at any time if it determines that granting or continuing the demonstrations would no longer be in the public interest. If the project is terminated or any relevant demonstrations withdrawn, CMS will be liable only for normal close-out costs.
8. **State Right to Terminate or Suspend.** The State may suspend or terminate this demonstration in whole or in part at any time before the date of expiration. The State must promptly notify CMS in writing of the reasons for the suspension or termination, together with the effective date. If the project is terminated or any relevant demonstrations suspended by the State, CMS will be liable only for normal close-out costs.

III. GENERAL REPORTING REQUIREMENTS

1. **Enrollment Reports.** Each month, Texas will provide CMS with an enrollment report showing enrollment from individual Home States in Texas' programs, showing end-of-month

point-in-time enrollment. The State will also provide CMS with unduplicated ever-enrolled data at the end of the demonstration period. This enrollment data will be provided as specified by CMS.

- 2. Final Report.** No later than December 31, 2006, Texas will be required to submit a final report to CMS to describe the impact of this program, including but not limited to, the impact on evacuees, the Host States, etc. CMS will provide guidance on the submission of the final report. CMS's comments shall be taken into consideration by the State for incorporation into the final report.
- 3. Expenditure Reports.** Texas will submit claims directly to CMS. Texas will report expenditures related to this demonstration on the CMS-64 and the CMS-21 in accordance with instructions provided by CMS (see attachments A and B for specific requirements). States will be required to track separately all expenditures associated with this demonstration, including but not limited to, administrative costs and program expenditures in accordance with instructions provided by CMS for this population. In addition, if Texas chooses to provide coverage to pregnant women from 134 percent of the federal poverty level (FPL) up to and including 185 percent FPL with prior residence in the State of Alabama then the State shall separately track this population and expenditures for their coverage will be paid through the uncompensated care pool.
- 4. Uncompensated Care Pool.** Expenditures from the pool will be subject to audit. Texas may establish other methodologies to prevent abuse, including an income test, and shall submit such methodologies by October 31, 2005. Texas shall establish mechanisms to prevent payments from the pool on behalf of individuals who have coverage for services or for which other options are available. Texas shall consider alternative methods for providing coverage to uninsured evacuees including through premium assistance for private insurance and other insurance pools and report to CMS on the feasibility of adopting such alternative methods no later than October 31, 2005.

IV. LEGISLATION

- 1. Changes in the Enforcement of Laws, Regulations, and Policy Statements.** All requirements of the Medicaid and SCHIP programs expressed in laws, regulations, and policy statements, not expressly waived or identified as not applicable in the award letter of which these STCs are a part, will apply to the demonstration.
- 2. Changes in Medicaid/SCHIP Law.** The State must, within the time frame specified in law, come into compliance with any changes in Federal law affecting the Medicaid/SCHIP programs that occur after the demonstration award date.
- 3. Passage of Federal Legislation.** In accepting this waiver, Texas is not precluded from amending their waiver to conform with legislative changes. Should legislation pass extending the temporary eligibility period for evacuees, CMS will automatically extend the temporary eligibility period without requiring Texas to submit an amendment.

V. ELIGIBILITY AND ENROLLMENT

- 1. Screening for Medicaid and SCHIP.** Applicants for the demonstration will be screened for Medicaid and SCHIP eligibility and enrolled in the program for which they are eligible.
- 2. Host State Assurances:** Texas assures that they will, to the greatest extent possible: 1) verify circumstances of eligibility, 2) verify residency and citizenship of the evacuees, and 3) prevent fraud and abuse. Host and Home States may be subject to audit by other Federal agencies including the Office of the Inspector General. The purpose of the audit will be to assure only evacuee expenses are claimed by the State under the terms of the waiver and to detect provider or client fraud and abuse. Any provider or client fraud and abuse will require recovery efforts on the part of the State; however, the States will not be held liable for such fraud and abuse. Additionally, there is a reciprocal obligation for Home/Host States in obtaining necessary information to determine eligibility for this waiver program.
- 3. SCHIP Eligibility Category:** The category of evacuees is a new eligibility category under SCHIP under this demonstration. The eligibility standards and methodologies that apply to this group are described in the approval letter and STCs and do not need to be described in the SCHIP state plan by virtue of our waiving 2102(a). Any eligibility standards and methodologies described in either a Home State's or Host State's title XIX and title XXI State plan will not apply to evacuees, including income, resources, access to or coverage under other health coverage, state residency, income, age, geographic area, or effective date of coverage.

VI. BENEFITS

The minimum benefits for evacuees will be those of the State Plan Title XIX programs in the Host State. Evacuees who qualify for SCHIP will receive the same benefit package as provided under the Texas SCHIP State plan, which meets the other Secretary-approved benchmark benefit package. The cost of services provided to evacuees for this initiative deemed eligible are not counted against any other Section 1115, Section 1915 (b) or (c) waiver the State may have, including Home and Community Based Services (HCBS) waiver slots. The Host State may add services to this population, including HCBS waiver services that are not otherwise covered by its own State Plan or HCBS waivers. Services beyond the State Plan provided to evacuees will be paid through the uncompensated care pool.

Texas will utilize a fee-for-service delivery system and waive mandatory managed care requirements for evacuees except in the Dallas Service Delivery Area where the State will have the discretion to use the NorthSTAR delivery model for behavioral health services. No State Plan changes are required.

VII. COST SHARING

The State will exempt all evacuees enrolled in the Title XIX and Title XXI programs from cost sharing.

VIII. PROGRAM DESIGN

1. Concurrent Operation

The State's Title XIX and Title XXI State plans, as approved, will continue to operate concurrently with this Section 1115 demonstration.

ATTACHMENT A

GENERAL FINANCIAL REQUIREMENTS UNDER TITLE XXI

1. The State shall provide quarterly expenditure reports using the Form CMS-21 to report total expenditures for services provided under the approved SCHIP plan and those provided through the TexKat demonstration under Section 1115 authority. This project is approved for expenditures applicable to services rendered during the demonstration period.
2. In order to track Title XXI expenditures under this demonstration, the State will report demonstration expenditures through the Medicaid and State Children's Health Insurance Program Budget and Expenditure System (MBES/CBES) as specified by CMS. Title XXI demonstration expenditures will be reported on separate Forms CMS-21 Waiver, CMS-21P Waiver, CMS-64.21U Waiver and/or CMS-64.21UP Waiver, identified by the demonstration project number assigned by CMS (including project number extension, which indicates the demonstration year in which services were rendered or for which capitation payments were made).
 - a. All claims for expenditures related to the demonstration (including any cost settlements) must be made within 2 years after the calendar quarter in which the State made the expenditures. Furthermore, all claims for services during the demonstration period (including cost settlements) must be made within 2 years after the conclusion or termination of the demonstration. During the latter 2-year period, the State must continue to identify separately net expenditures related to dates of service during the operation of the demonstration on the Form CMS-21.
 - b. The standard SCHIP funding process will be used during the demonstration. Texas must estimate aggregate matchable SCHIP expenditures on the quarterly Form CMS-21B. On a separate CMS-21B, the State shall provide updated aggregate estimates of expenditures for the demonstration population. CMS will make Federal funds available based upon the State's aggregate estimate, as approved by CMS. Within 30 days after the end of each quarter, the State must submit the Form CMS-21 quarterly SCHIP expenditure report. CMS will reconcile expenditures reported on the Form CMS-21 with Federal funding previously made available to the State, and include the reconciling adjustment in the finalization of the grant award to the State.

ATTACHMENT B

GENERAL FINANCIAL REQUIREMENTS UNDER TITLE XIX DEMONSTRATION POPULATION

1. The State will provide quarterly expenditure reports using the Form CMS-64 to report total expenditures for services provided under the Medicaid program, including those provided through the demonstration under Section 1115 authority. This project is approved for expenditures applicable to services rendered during the demonstration period. The CMS will provide Federal Financial Participation (FFP) for allowable demonstration expenditures only.
2.
 - a. In order to track expenditures under this demonstration, Texas will report the demonstration expenditures through the MBES/CBES as required by CMS. All expenditures will be reported on separate Forms CMS-64.9 WAIVER and/or 64.9P WAIVER, identified by the demonstration project number assigned by CMS (including the project number extension, which indicates the demonstration year in which services were rendered or for which capitation payments were made).
 - b. Administrative costs directly attributable to the demonstration are separately reported and tracked on separate Forms CMS-64.10 WAIVER and/or 64.10P WAIVER.
 - c. All claims for demonstration expenditures must be made within 2 years after the calendar quarter in which the State made the expenditures. Furthermore, all claims for services during the demonstration period must be made within 2 years after the conclusion or termination of the demonstration.
3. The standard Medicaid funding process will be used during the demonstration. The estimate of aggregate matchable demonstration expenditures (total computable/federal share) must be separately reported by quarter for each Federal fiscal year on the Form CMS-37.12 for both the Medical Assistance Program (MAP) and Administrative Costs (ADM). CMS will make Federal funds available based upon the State's aggregate estimate, as approved by CMS. Within 30 days after the end of each quarter, the State must submit the Form CMS-64 quarterly Medicaid expenditure report, showing Medicaid expenditures made in the quarter just ended.